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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
09/889,347	10/02/2001	Roger F. Lay	770P009746US	2635
2512	7590	10/19/2004	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			CHOI, STEPHEN	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/889,347

Applicant(s)

LAY ET AL.

Examiner

Stephen Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,11,12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,11-12,14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 12 is objected to because of the following informalities: "encoded" should be --encoder--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1 and 7 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's Admitted Prior Art (hereafter AAPA).

AAPA discloses all the recited steps and elements of the invention including a housing, means to select a first selected length of sealing tape to be dispensed, means to dispense a first dispensed tape length having the first selected length of sealing tape, and electronic means (pages 1-2 of the specification and Figure 2). Regarding claim 7, AAPA discloses means to automatically dispense a second selected length that is different than the first selected length as set forth in claim 7 since dispensed length of the prior art device can vary. It is noted that the claim does not require means to select the second selected length that is different than the first selected length.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-3, 5-6, 11-12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Hayashi et al. (US 4,266,276).

Regarding claims 2-3 and 11-12, AAPA discloses the invention substantially as claimed except for means mounted on an idler wheel shaft for determining that the first dispensed tape length has the first selected length comprising an optical encoder. Hayashi teaches the use of an encoder mounted on a non-driven roller independently of a driven roller to accurately measure the material traveled distance as old and well known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of AAPA with means on a non-driven roller for measuring the length of the material independently from the rotation of a driving device as taught by Hayashi in order to improve means for measuring a selected length being dispensed. Regarding claims 5-6 and 14-15, AAPA fails to disclose means to automatically correct for errors in length of the first selected length and electronic memory including correction lengths as a function of selected lengths. Hayashi also teaches means to automatically correct for errors in length of the first selected length (43) and electronic memory including correction lengths (N) as a function of selected lengths (L_0). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ such means for correcting errors as taught by Hayashi in order to provide means for automatically correcting errors. Regarding claim 16, the modified device of AAPA discloses means to automatically dispense a second

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selected length that is different than the first selected length as set forth in claim 16 since dispensed length of the prior art device can vary. It is noted that the claim does not require means to select the second selected length that is different than the first selected length.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Laciak et al. (US 4,143,566).

AAPA discloses the invention substantially as claimed except for the means for double or halve length of the first selected length also doubles or halves an increment of sealing tape length. Laciak discloses means for feeding the length of the material based on the feed length of the previous operating cycle together with any adjustment made. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ such teachings of Laciak on the means to double or halve length of the selected length of AAPA in order to provide means for repeating the feed length with any adjustment made to improve selection of the desired operation.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Smith (US 5,667,315).

AAPA discloses the invention substantially as claimed except for remote second electronic controls operatively connected to the first electronic controls. Smith shows one example of a remote host controller controlling a number of controllers connected to devices. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ remote second electronic control as taught by Smith

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with the device of AAPA in order to provide means for controlling a plurality of devices remotely.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Hayashi as applied to claim 11 above, and further in view of Smith (US 5,667,315).

The method of AAPA discloses the invention substantially as claimed except for remote second electronic controls operatively connected to the first electronic controls. Smith shows one example of a remote host controller controlling a number of controllers connected to devices. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ remote second electronic control as taught by Smith with the device of AAPA in order to provide means for controlling a plurality of devices remotely.

Response to Arguments

9. Applicant's arguments filed 28 May 2004 have been fully considered but they are not persuasive.

Regarding claim 1, applicants contend that AAPA does not disclose the means to dispense a length of tape with its actual length extending from one end of the dispensed length to another opposite end being the selected length.

The examiner respectfully disagrees. The issue at hand is whether the device of AAPA is capable of performing the recited function. The device of AAPA is capable of dispensing a length of tape with its actual length extending from one end of the

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dispensed length to another opposite end being the selected length. The fact that errors can occur on the prior art device is irrelevant to the issue.

Regarding claims 2-3, 5-6, 11-12, and 14-15, applicants contend that Hayashi is nonanalogous art. Furthermore, applicants contend that the roller 28 of Hayashi has nothing to do with determining the length much less the actual length of the material being cut.

The reference to Hayashi concerns with the particular problem which is reasonably pertinent to the applicant's invention. In particular, the reference to Hayashi attempts to improve dimensional accuracy of cutting operation by using a freewheeling roller in rotary contact with the material to drive an encoder to measure a running web length relative to a predetermined length. The present application concerns with controlling the accuracy of dispensed length relative to the selected length by using an encoder attached to an idler wheel. Hence, Hayashi is analogous art. Although Hayashi is silent as to whether the roller is an idler roller, it is clear from the disclosure that the roller 28 is an idler roller (see col. 4, lines 47-49). Moreover, Hayashi teaches the length measuring pulses being generated by the encoder attached to the roller 28 which corresponds to the distance of travel of material (see col. 4, lines 45-47).

Regarding claim 5, applicants contend that Hayashi does not teach means to automatically correct for errors in length of the first selected length since the correction value N is merely a correction value relating to the speed of the cutter to the traveling speed of the material.

The correction value N is calculated on the basis of a set cutting length and a synchronous cutting length in order to synchronize the rotation of the cutter and the movement of the material. The rotation of the cutter and the movement of the material control the accuracy of the cutting length. Any errors are corrected by the correction value N. Hence, Hayashi does teach means to automatically correct for errors in length of the selected length as claimed.

Regarding claims 7 and 16, applicants contend that the device of AAPA does not teach the second selected length different than the first selected length.

As set forth above, the device of AAPA is capable of automatically dispensing the second selected length that is different than the first selected length as set forth in claims 7 and 16 since the dispensed length can vary. The claim does not require any means to select the second selected length that is different than the first selected length.

Regarding claims 9 and 18, applicants contend that none of the cited prior art references disclose or suggest anything about a sealing tape dispenser having first electronic controls on the housing and remote second electronic controls connected to the first controls.

As set forth above, the Official Notice was taken on the use of remote second electronic controls as old and well known in the art for controlling a plurality of devices remotely. The reference to Smith shows one example of a remote host controller controlling a number of controllers connected to devices.

Conclusion

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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aubrey et al., Faggetter, and Byrt et al. are cited to show related devices.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 703-306-4523. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC
14 October 2004



STEPHEN CHOI
PRIMARY EXAMINER